

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC-SDNY
DOCUMENT
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DATE FILED: 4/7/2020

UNITED STATES OF AMERICA,

v.

SADDAM MOHAMED RAISHANI,

Defendant.

No. 17-Cr-421 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

On April 6, 2020, Defendant Saddam Mohamed Raishani requested an extension to file his 28 U.S.C. § 2255 motion because of the BOP lockdown and restricted movement within the prison in light of COVID-19. *See* Dkt. 64. The Court, however, may not grant Mr. Raishani's request at this time. In *Green v. United States*, the Second Circuit held that "a district court may grant an extension of time to file a motion pursuant to section 2255 only if (1) the moving party requests the extension upon or after filing an actual section 2255 motion, and (2) 'rare and exceptional' circumstances warrant equitably tolling the limitations period." 260 F.3d 78, 82-83 (2d Cir. 2001); *see also* *Gonzalez v. United States*, No. 15-CV-8831 (VSB), 2018 WL 5023941, at *3 (S.D.N.Y. Oct. 17, 2018) ("Because a federal court 'lacks jurisdiction to consider timeliness of a § 2255 petition until [it] is actually filed,' an extension may be granted only *after* an 'actual [§] 2255' petition is filed." (quoting *United States v. Leon*, 203 F.3d 162, 164 (2d Cir. 2000))).

Accordingly, because Mr. Raishani has not yet filed his § 2255 motion, his extension request must be denied. However, upon Mr. Raishani's filing of a § 2255

motion, the Court will consider the appropriateness of an extension request, if made at that time.

SO ORDERED.

Dated: April 7, 2020
New York, New York

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Ronnie Abrams
United States District Judge